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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
)
Amendment of Section 73.606(b))
Table of Allotments,)
Television Broadcast Stations)
(Bath, New York))
)
Amendment of Section 73.622(b))
DTV Table of Allotments)
Digital Television Broadcast Stations)
(Syracuse, New York))

MM Docket No. _____
RM- _____

To: Chief, Allocations Branch
Policy and Rules Division
Media Bureau

REPLY TO THE OPPOSITION OF WILLIAM H. WALKER 111

Paxson Syracuse License, Inc. ("Paxson"), licensee of WSPX-TV, Syracuse, New York (the "Station") and petitioner in the above-referenced proceeding, by its attorneys, hereby files this Reply to the Opposition (the "Opposition") of William H. Walker, III ("Walker") to Paxson's Petition for Rulemaking to Amend the TV and DTV Tables of Allotments.¹ Paxson reiterates that the more efficacious use at this time of the spectrum currently allotted to Channel 14 at Bath, New York is for digital service in Syracuse. Assigning this spectrum as a

¹ To the extent necessary, Paxson requests leave to file this reply. Should the Commission treat the Opposition as an informal objection, Paxson requests that the Commission accordingly treat this Reply as a response thereto.

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paired allotment for the Station would serve the public interest by accelerating the DTV transition without depriving any person of relied-upon service

Paxson wishes to emphasize that it does not oppose the commencement of new service to the Bath, New York community and does not dispute Walker's sincerity or patience. Rather, the issue presented is whether, during this unprecedented spectrum shortage, the Channel 14 allotment will continue to lie fallow while viewers of the Station face inevitable service losses and there are at least two reasons why the proposed reallocation better serves the public interest. First, the Bath Application has been pending for fifteen years, and there is no indication that it will be granted soon, if ever. Conversely, the proposal made in the Petition is grantable as it stands and would significantly contribute to the implementation of digital television. Second, the Commission need not choose, as the Opposition suggests, between the Petition and added service to the Bath community. The Commission can assign to Bath another allotment as it may become available. Given the years that have passed while the Bath Application has remained pending, the additional delay in commencing new service to the Bath community would be marginal.

Walker argues that further delay is preferable to awarding a paired digital allotment to the Station.² Although Walker maintains that the Commission "awards a heavy preference for a first broadcast outlet to a community," he fails to recognize that the loss to the public of existing broadcast service is of even higher import.⁴ Without a digital allotment, when it "flash-cuts" to

² Opposition at 2-3

Id. at 2.

⁴ See, e.g., *West Michigan Telecasters, Inc. v. FCC*, 460 F.2d 883 (D. C. Cir. 1972) (losses in service are *prima facie* inconsistent with the public interest and must be supported by a strong showing of countervailing factors).

DTV the Station will be unable to serve those existing viewers who do not have access to digital receivers. On the other hand, a paired digital allotment for the Station will advance the DTV transition by giving consumers reason to purchase digital receivers – the critical metric in the success of the DTV transition and the recovery of analog spectrum.⁵ Consequently, grant of the petition would serve the particularly strong public interest of facilitating **an** accelerated DTV transition without compromising any existing service or, by all appearances, without unduly delaying new service to the Bath, New York community.

Moreover, at this stage of the transition, commencement of digital service should be preferred over the creation of additional single-channel analog broadcasters. Walker claims that his Application should be given preference over the petition,⁶ but both common sense and the Commission's past practices preclude such a result. **As** Paxson demonstrated in its Petition, the Commission has shown a preference for providing digital channels to existing broadcasters over the creation of new single-channel broadcasters.' The Opposition offers no reasonable justification for the Commission to deviate from this practice.

The Bath community cannot miss what it has never had. **At** this time, the public would be better served if the Commission facilitates the DTV transition and prevents the loss of existing, relied-upon service. For these and the additional reasons described in the Petition, the Commission should institute a rulemaking, grant the requested amendments to the TV and DTV

The DTV transition will end when 85% of the market is capable of receiving digital signals. See 47 U.S.C.309(j)(14)(B).

⁶ Opposition at 2.

⁷ Petition at 8-9.

Tables of Allotments, and make digital Channel 14 available as a paired allotment for the Station.

Respectfully Submitted,

PAXSON SYRACUSE LICENSE, INC.

By:

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Dated: December 16, 2002

CERTIFICATE OF SERVICE

I, Sherenc F. McDougall, hereby certify that a true and correct copy of the foregoing Reply Comments was sent on this 16th day of December, 2002, via First Class U.S. Mail, postage prepaid to the following:

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